

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**DUANE E. LEA,**

**Plaintiff,**

**V.**

**JOHN E. POTTER, POSTMASTER  
GENERAL - U.S. POSTAL SERVICE;  
JAMES J. GALLAGHER, POSTMASTER  
- PHILADELPHIA; JAMES . ADAMS,  
AREA "C" MANAGER ET AL.;  
KAREN STRAWBRIDGE, LIMITED DUTY  
CARRIER; ED GANISEWSKI, LIMITED  
DUTY CARRIER,**

## Defendants.

## ORDER

AND NOW, this                      day of                      , 2004, upon consideration of defendant's motion to dismiss, and plaintiff's response thereto, it is hereby ORDERED that defendant's motion is GRANTED. Plaintiff's action is hereby ordered DISMISSED for failure to prosecute.

BY THE COURT:

JAMES MCGIRR KELLY, Senior Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**DUANE E. LEA,**

**Plaintiff,**

**V.**

**JOHN E. POTTER, POSTMASTER  
GENERAL - U.S. POSTAL SERVICE;  
JAMES J. GALLAGHER, POSTMASTER  
- PHILADELPHIA; JAMES . ADAMS,  
AREA "C" MANAGER ET AL.;  
KAREN STRAWBRIDGE, LIMITED DUTY  
CARRIER; ED GANISEWSKI, LIMITED  
DUTY CARRIER,**

**Defendants.**

**MOTION OF DEFENDANTS TO DISMISS ACTION  
FOR FAILURE TO PROSECUTE**

Defendants, by and through their attorneys, Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania, and KT. Tomlinson Newton, Assistant United States Attorney for the same district, moves this Court to dismiss plaintiff's action under rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

1. On May 16, 2002, *pro se* plaintiff, Duane E. Lea, filed a motion for leave to proceed *in forma pauperis* in connection with a discrimination suit under Title VII. *See* Gov’t Exhibit 1 (docket report) at no. 1.

2. That motion was denied by the Court on May 20, 2002.. *See* Gov't Exhibit 1 (docket report) at no. 2.

3. Mr. Lea filed a motion for reconsideration on May 23, 2002, which was denied by the Court on June 28, 2002. *See* Gov't Exhibit 1 (docket report) at nos. 3, 4. The Court also instructed the Clerk of the Court to provide plaintiff with a copy of the form of affidavit required to proceed *in forma pauperis* and instructed plaintiff to submit that completed affidavit upon submission to proceed *in forma pauperis*..

4 Mr. Lea filed his second motion to proceed *in forma pauperis* on June 13, 2002. *See* Gov't Exhibit 1 (docket report) at no. 5.

5 That motion was denied by the Court on June 19, 2002. *See* Gov't Exhibit 1 (docket report) at no. 6.

6. Mr. Lea filed another motion for reconsideration on June 25, 2002, which was denied by the Court that same day. *See* Gov't Exhibit 1 (docket report) at nos. 7, 8.

7. Mr. Lea has taken no further action to prosecute this lawsuit in the last twenty-one months.

WHEREFORE, given plaintiff's complete and total lack of action in this matter since June 25, 2002, the government respectfully requests that this Court dismiss this action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.

Respectfully submitted,

PATRICK L. MEEHAN  
United States Attorney

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VIRGINIA A. GIBSON  
Chief, Civil Division

Dated: March 3, 2004

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K.T. TOMLINSON NEWTON  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

I certify that, on this date, a true and correct copy of the foregoing Motion of Defendants To Dismiss Action For Failure to Prosecute, which was filed electronically and is available for viewing and downloading from the court's ECF system, was served via First Class mail, postage prepaid, upon the following:

Duane E. Lea  
527 Justice Drive  
Marlton, New Jersey 08053-5346  
Plaintiff *pro se*

Dated: March 3, 2004

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K.T. NEWTON  
Assistant United States Attorney